

SECOM-D-749

7 December 1979

MEMORANDUM FOR: Deputy Director of Security for  
Policy and Management

ATTENTION:

FROM:

Deputy Director for Community Affairs

SUBJECT: Comments on IC's Legal Counsels Program to  
Curb Leaks

1. Per our conversation yesterday, this confirms the status of SECOM action and offers some personal observations on the Legal Counsels' paper.

a. I passed a copy to [ ] NSA, and Chairman of SECOM's Unauthorized Disclosure Investigations Subcommittee, at the November SECOM meeting and asked him to prepare comments for the SECOM to offer the DCI. A copy of my tasking paper is attached. (SECOM-D-723)

b. Mr. Gambino informed me of a call from [ ] who was aware of the SECOM tasking to [ ] asked Gambino not to disseminate the paper to Subcommittee members. Accordingly I called [ ] and cancelled the action. Thus there is no SECOM action on this paper as of 6 December 1979 and none is planned until Mr. Gambino so instructs.

2. I've talked to [ ] about the paper. He, as a member of NSA's General Counsel's office, participated in its drafting. He informed me that the main goal was to

get the NSC Special Coordination Committee to recommend to the President that:

a. there be established some kind of clearance point for high level people who wanted to leak; and

b. the President authorize and direct the Attorney General to commit the FBI to do investigations of leaks for purposes not directed at prosecution - such as collecting information for administrative actions against the leaker.

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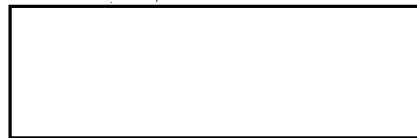
3. Mike was very surprised at the suggestion in  memo to the DCI of 24 October 1979 that FBI resources might be supplemented by detailing security officers from different Intelligence Agencies. He agreed with me that this would be undesirable even if (and it is a very small "if") it was legal. He said he would informally work through the association of Legal Counsels to get the idea turned around.

4. As for the tack CIA should recommend to the DCI, I propose:

a. That each Intelligence Agency be encouraged to assign knowledgeable investigators to handle leaks internally. I had some ideas on how we could formalize and encourage such actions in the IC, and I attach a copy of the paper I sent to Mr. Gambino on this.

b. That it be recommended to the President that he direct the Justice Department to instruct the FBI to investigate for either administrative or criminal action those leaks the DCI identifies as threats to NFI sources and methods.

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Attachments

SUBJECT: Comments on IC's Legal Counsels Program to  
Curb Leaks

Distribution:

Orig - Addressee, Attn: [ ] w/atts  
1 - SECOM Chrono w/atts  
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SECOM [ ] (7/79)

DIRECTOR OF CENTRAL INTELLIGENCE  
**Security Committee**

SECOM-D-723

26 November 1979

MEMORANDUM FOR: Chairman, Unauthorized Disclosures  
Investigations Subcommittee

STATINTL

FROM:   
Executive Secretary

SUBJECT: Task - Preparation of SECOM Position to  
DCI on Intelligence Community Legal  
Memorandum on Actions to Curb Leaks

1. Action Requested: That you and your subcommittee prepare a SECOM position paper for DCI consideration in connection with the attached paper entitled "Program of Action to Curb Unauthorized Public Disclosure of Sensitive Intelligence Information."

2. Background: The General Counsels of CIA, NSA, DIA and DoD drafted a paper for DCI consideration to be sent to Dr. Brzezinski on the problems of leaks. The DCI mentioned this paper in a memorandum to Dr. Brzezinski of 22 October 1979. On 24 October 1979  met with Mr. Lloyd Cutler to discuss the problem of leaks. Mr. Cutler was receptive, particularly to two ideas contained in the DCI's draft memorandum to Dr. Brzezinski. They are (1) a system of prior clearances with the Executive Branch for authorized disclosures of intelligence and (2) directing the FBI to investigate leaks so as to apply administrative sanctions and perhaps to meet the FBI's manpower shortage by detailing to them Departmental Office of Security Agents.

On 29 October [ ] proposed to the DCI STATINTL that the Legal Counsels memorandum be sent directly to Dr. Brzezinski and Mr. Cutler without DCI endorsement. This would leave him free to adopt a position on any proposals considered by the Special Coordination Committee. The DCI concurred in this suggestion and the memorandum was delivered.

3. Discussions: Legal Counsels of the Intelligence Community have been seriously and deeply concerned with the leak problem. Their proposals were drafted to try to reduce the problem to at least manageable proportions. Their basic approach is to recognize that Administration officials should be provided guidance in this area and that FBI investigations for other than prosecution could have beneficial results.

In large measure, implementation of such a proposal will fall to security officers of the Community. This is particularly true in connection with the suggestion of detailing security personnel to supplement FBI manpower resources in this sphere.

The Security Committee was not a participant in the preparation of the Legal Counsels proposals nor did events permit coordination with the Committee. It would appear that some observations by the Committee could contribute to the factors and alternatives to be considered by the DCI in his appraisal of options and courses of action he will be asked to address when or if the Legal Counsel proposals are considered by the Special Coordination Committee. It is also appropriate for the Chairman, SECOM, to have the advice and counsel of Committee members if he is consulted on this matter by the DCI.

Events are moving rapidly and the SECOM should move quickly so as to arrive at a consolidated and agreed on range of alternatives and courses of actions.

4. Tasking: It is requested that you meet with members of your subcommittee and review the issues presented by the Legal Counsels and prepare an advisory paper for consideration of the Chairman and Members of SECOM. The results of your deliberations would be appreciated by December 17, 1979.

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Approved For Release 2004/12/22 : CIA-RDP82M00591R000200130019-7

SECOM/ [ ] (11/26/79)

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DIRECTOR OF CENTRAL INTELLIGENCE  
**Security Committee**

SECOM-D-532

29 MAY 1979

MEMORANDUM FOR: Chairman, Security Committee

FROM:

Executive Secretary

STATINTL

SUBJECT: Investigations of Unauthorized Disclosures

1. Would you, as Director of Security CIA, be willing to identify and have trained, 4-5 investigators to work on leak investigations in-house as the need may arise? If so, would you, as Chairman, Security Committee, be willing to suggest this to members and support the idea before the NFIB?

2. It looks as if we are going to have to do in-house investigations since the Department of Justice or FBI seem reluctant to devote sufficient resources to the investigation of "leaks". There are no resources identified in CIA to do this. When the CIA member of the Unauthorized Disclosure Investigations Subcommittee gets a call from the Chairman to do an investigation, he finds himself without the immediate means to do so. If his request for assistance is ultimately granted then he may or may not be given trained investigators and in any case will not be provided with personnel who have any knowledge of procedures about leak investigations. This situation is probably true in other agencies. It certainly is in NSA.

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3. I'd like to propose that each agency identify and make available personnel who will be available to do leak investigations in-house.

4. There should be a training program for them. A short course of about a week, during which time they will get a general orientation on what is needed, an idea of the processes of intelligence dissemination and guidance on procedures for leak investigation and reporting. CSG, with [ ] help, could structure the program and conduct it.

5. Once trained, these investigators would return to their primary duties. On determination by the Subcommittee Chairman [ ] and his quick reaction group that an investigation in one or more agencies is warranted, the agency representative should be able to activate a call for the investigators. He would brief them on circumstances, set parameters around coverage desired and indicate those components within the agency that should be approached by the investigators.

6. The purpose of the investigation would be in discharge of the DCI's (in case of the CIA) and the SIO's (in case of other agencies) responsibility to investigate unauthorized disclosures. The immediate goal would be to permit SIO's to take whatever remedial action is necessary and to have documented grounds for administrative sanctions against a discovered "leaker". The longer range goals would be to provide the DCI with a composite report, through the Chairman, Security Committee, which could be used in determining further access to classified intelligence to an element or person will be allowed. Thus the investigations are in-house and have, as their initial purpose, the identification of leakers and only indirectly are aimed at prosecution. They would offer the potential to be more complete and more timely than the investigations which are presently being conducted.

7. Further, there would be advantages should additional actions be desired, to wit, the DCI would have grounds on which to ask Justice and the FBI to undertake a formal investigation for prosecuting purposes. Justice, receiving copies of all investigations reported through SECOM to the DCI, would be in position to assure themselves that the

DCI was not arbitrarily or capriciously shotgunning requests to them for leak investigations but was acting prudently and selectively. The investigation report would also enable the Justice Department and the FBI to estimate the investigative resources they would have to commit. The reports would also be useful in helping Justice decide whether the request was worthy of prosecuting actions. In-house, the investigations will provide sufficient information in which to evaluate the advisability or feasibility of answering DOJ's 11 questions, determining whether the material could be offered in prosecution actions and evaluating the risk factors involved.

8. I really don't see any other way to go in view of Judge Bell's position and Judge Webster's dependence on Justice's authorization before using the FBI.

9. There will be objections from some SECOM members. NSA can be expected to say that they have no investigative assets. State will raise jurisdictional points about their split between INR (which has no investigative resource) and SY (which receives no intelligence). DIA will have to depend on the good graces of a service department or DIS.

10. All will probably point out that the biggest source of leaks, the Hill, is not covered and that we have no authority to force investigations. As a possible response, and recognizing this gap in our coverage, could we explore the possibility of having the DCI or OLC ask Committee Chairmen to cooperate in this effort by having a staff officer appointed to look into leaks on those occasions when the Intelligence Community goes all out to resolve an unauthorized disclosure. I'd be willing to explore this with [REDACTED]

11. There is also the NSC area to look at. Can we explore, through an Agency source, the possibility of having a point of contact in the NSC for coordination on leak investigations?

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